

FIFTH AMENDMENT
TO
CONSTRUCTION AGREEMENT

THIS FIFTH AMENDMENT to the Construction Agreement dated November 2, 2016, is made and entered into August 26, 2019 (the "FIFTH Amendment") between LIPSKY BUILDING CONSTRUCTION, INC., having an office located at 814 Montauk Highway, Bayport, NY 11705, ("Contractor"), and the HOUSING TRUST FUND CORPORATION, having its principal office at 38-40 State Street, Albany, New York 12207 ("HTFC").

WITNESSETH:

WHEREAS, Contractor was successfully admitted to the Prequalified List (PQL) for RFQ#201603_047 on August 11, 2016; and

WHEREAS, Contractor was a successful bidder pursuant to an initial Invitation for Bid (IFB) #027E issued on August 17, 2016; and

WHEREAS, HTFC and Contractor entered into a Construction Agreement (the "Agreement") on November 2, 2016, and made effective on September 7, 2016, pursuant to which Contractor provides certain services in support of HTFC's administration of the State of New York's Community Development Block Grant-Disaster Recovery ("CDBG-DR") program; and

WHEREAS, HTFC's Governor's Office of Storm Recovery ("GOSR") is specifically tasked with administering the State of New York's CDBG-DR program and therefore oversees and administers this Agreement; and

WHEREAS, HTFC and Contractor's Contract Price in the Construction Agreement totaled \$5,000,000.00; and

WHEREAS, HTFC and Contractor entered into a First Amendment to the Agreement on January 20, 2017 which increased the Contract Price by \$5,000,000.00, to a new Total Amount of \$10,000,000.00; and

WHEREAS, HTFC and Contractor entered into a Second Amendment to the Agreement on November 16, 2017 which increased the Contract Price by \$4,000,000.00, to new Total Amount of \$14,000,000.00, and extended the Contract Term for an additional one (1) year, to September 6, 2018; and

WHEREAS, HTFC and Contractor entered into a Third Amendment to the Agreement on July 11, 2018, which increased the Contract Price by \$2,550,000.0, to new total amount of \$16,550,00.00, and extended the Contract Term for an additional one (1) year, to September 6, 2019; and

WHEREAS, HTFC and Contractor entered into a Fourth Amendment to the Agreement on January 25, 2019, which increased the Contract Price by \$170,000.00 to new total amount of \$16,720,00.00; and

WHEREAS, HTFC wishes to obtain additional services from Contractor that are within the scope of services sought under the RFQ and provided by Contractor under the Agreement; and

WHEREAS, HTFC seeks such additional services in the amount of \$1,000,000.00, thereby increasing the Contract Price to a new Total Amount of \$17,720,000.00; and

WHEREAS, HTFC seeks to extend the Term of the Agreement to September 6, 2020; and

WHEREAS, HTFC/GOSR and Contractor desire to amend the Agreement by means of this Fifth Amendment to increase the Contract Price and to extend the Term of the Agreement to allow Contractor to perform additional services;

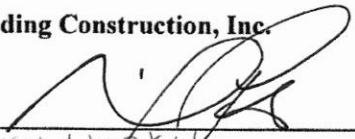
NOW, THEREFORE, pursuant to and in consideration of the above, and other mutual covenants and obligations herein contained, it is

STIPULATED AND AGREED as follows:

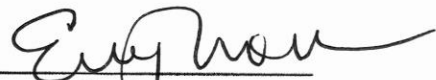
1. The Third and Fourth sentences of Article 3 Section 3.1 of the Construction Agreement are hereby deleted and replaced with the following:
"Notwithstanding the latter, Contractor agrees that in no event will HTFC pay the Contractor more than \$17,720,000.00 ("Contract Price") for the Services under all applicable work orders under this Construction Agreement unless the Contract Price is first modified in writing by a fully executed Amendment to this Construction Agreement. For the avoidance of doubt, the Contract Price for all work to be performed pursuant to this Construction Agreement **shall not exceed \$17,720,000.00.**"
2. Section 4.3 of Article 4 is hereby deleted and replaced with the following:
"4.3 Period of Performance. Contractor will perform the Work set forth in all applicable Work Orders under this Construction Agreement during the period: **September 7, 2016 thru September 6, 2020**".
3. All other terms and conditions, including appendices, attachments, exhibits, riders, prior Amendments, and Letter Agreements to the Agreement are hereby continued in full force and effect as though set forth herein.

IN WITNESS WHEREOF, the parties executed this Fifth Amendment on the day and year first above written.

Lipsky Building Construction, Inc.

By: 
Name: Barry Lipsky
Title: President
Date: 8/21/2019

Housing Trust Fund Corporation

By: 
Name: Emily Thompson
Title: Acting General Counsel,
Governor's Office of Storm Recovery
Date: 8-26-19